Application No. 10/659,063
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REMARKS

The Applicants express appreciation that the rejections of the claims under 35 U.S.C. § 112 have been withdrawn.

The Examiner has newly rejected pending claims 1-6 and 8 as obvious over von Lund et al., newly cited. This rejection is respectively traversed for the reasons given below and reconsideration is requested.

In the method of the invention, as the Examiner states, a patient having an inflammatory condition for which treatment is desired is administered a therapeutic composition comprising cADPR or a functional analogue or derivative thereof. Thus, the active compound in the Applicants' method of treating an inflammatory condition is cADPR itself or an analogue having the *same function*. In other words, the Applicants' method requires an *agonist* of cADPR activity.

The specification of the patent application of von Lund et al., however, teaches a different effect. As the Examiner himself points out, Lund et al. teaches that "*antagonists* (modulators) of cADPR such as a cADPR derivative can be used to *treat inflammation* in a subject" (emphasis added), the exact opposite of the treatment the Applicants are claiming. This teaching is made even more clearly in an additional paragraph, [0013], beyond those

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cited by the Examiner. In the first half of paragraph [0013], it is stated explicitly that *CD38 antagonists* may be used in the treatment of *inflammation* among other disorders. The disorders listed are described as those "where the migratory activity of CD38-expressing cells . . . contributed to the development of such disorders," i.e., where a treatment should be directed to *inhibiting* CD38-expressing cells. In contrast, in the second half of the paragraph, Lund et al. suggests that *agonists* of CD38 should be used to *induce the migratory activity of CD38-expressing cells*, when the subjects are "infected with pathogenic microorganisms," i.e., a condition in which *inflammatory agents are recruited to fight the infection.*

Thus, as Lund et al. teaches the *exact opposite treatment* to the Applicants' claimed method for the exact opposite condition, the Applicants submit that Lund et al. is a clear teaching away situation and that one of ordinary skill would never have been led to the Applicants' invention through any of the Lund et al. teachings.

The Applicants have based their claims on sound observation and direct testing of the effects of cADPR on inflammation itself, not on a removed effect. In contrast, Lund et al. created a totally artificial environment in their animal model by working

with CD38KO mice, an environment that, from their results, clearly should not be extrapolated to clinical conditions.

The Applicants submit, therefore, that the rejection over Lund et al. has been overcome and that all claims are in condition for allowance. Such action is respectfully requested.

The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the claims in the present application.

Respectfully submitted,

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